



General Assembly

January Session, 2011

**Amendment**

LCO No. 8472

**\*SB0102408472SD0\***

Offered by:

SEN. FONFARA, 1<sup>st</sup> Dist.  
SEN. WITKOS, 8<sup>th</sup> Dist.  
SEN. DUFF, 25<sup>th</sup> Dist.  
REP. HOYDICK, 120<sup>th</sup> Dist.  
REP. GUERRERA, 29<sup>th</sup> Dist.  
REP. KLARIDES, 114<sup>th</sup> Dist.

REP. ROSE, 118<sup>th</sup> Dist.  
REP. SAMPSON, 80<sup>th</sup> Dist.  
REP. KUPCHICK, 132<sup>nd</sup> Dist.  
REP. HWANG, 134<sup>th</sup> Dist.  
REP. ROY, 119<sup>th</sup> Dist.  
REP. DAVIS P., 117<sup>th</sup> Dist.

To: Subst. Senate Bill No. **1024**

File No. 448

Cal. No. 260

**"AN ACT MODERNIZING THE STATE'S TELECOMMUNICATIONS LAWS."**

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2011*) The Department of  
4 Public Utility Control shall conduct a performance review proceeding  
5 that includes all persons, entities or companies holding a certificate of  
6 public convenience and necessity to provide community antenna  
7 television service, a certificate of cable franchise authority or a  
8 certificate of video franchise authority, as such terms are defined in  
9 section 16-1 of the general statutes, to ensure compliance with the  
10 terms and conditions of any such certificate, and to review as  
11 applicable pursuant to any such certificate issues relating to customer

12 service, community access support, management of outages, service to  
13 handicapped and low-income customers and cooperation with the  
14 department. After the initial review required pursuant to this section,  
15 the department may conduct subsequent reviews at intervals of five  
16 years thereafter. Any performance review shall be limited to a review  
17 of those conditions or requirements specifically set forth in state  
18 statute. Each performance review conducted pursuant to this section  
19 shall be an uncontested case and shall include an opportunity for a  
20 public hearing. The Attorney General, the Office of Consumer Counsel  
21 and cable and certified video provider advisory councils shall be  
22 designated as participants to any such proceeding.

23 Sec. 2. Section 16-247f of the general statutes is repealed and the  
24 following is substituted in lieu thereof (*Effective July 1, 2011*):

25 (a) The department shall regulate the provision of  
26 telecommunications services in the state in a manner designed to foster  
27 competition and protect the public interest.

28 (b) Notwithstanding the provisions of section 16-19, the following  
29 telecommunications services shall be deemed competitive services: (1)  
30 A telecommunications service offered on or before July 1, 1994, by a  
31 certified telecommunications provider and a wide area telephone  
32 service, "800" service, centrex service or digital centrex service offered  
33 by a telephone company, (2) a telecommunications service offered to  
34 business customers by a telephone company, (3) a home office service  
35 offered by a telephone company, and (4) a telecommunications service  
36 provided by a telephone company to a residential customer who  
37 subscribes to two or more telephone company services, including basic  
38 local exchange service, any vertical feature or interstate toll provided  
39 by a telephone company affiliate. Unless reclassified pursuant to this  
40 section, any other service offered by a telephone company on or before  
41 July 1, 1994, shall be deemed a noncompetitive service, provided such  
42 initial classification shall not be a factual finding that such service is  
43 noncompetitive. Notwithstanding subdivision (3) of subsection (c) of  
44 section 16-247b, prior to January 1, 2010, a telephone company shall

45 not obtain a waiver from the department of the pricing standard set  
46 forth in subdivision (1) of subsection (c) of section 16-247b for any  
47 service reclassified as competitive pursuant to subdivision (2), (3) or (4)  
48 of this subsection.

49 (c) On petition [L] or on its own motion, [or in conjunction with a  
50 tariff investigation conducted pursuant to subsection (f) of this  
51 section,] after notice and hearing, and within ninety days of receipt of a  
52 petition or its motion or within the time period set forth in subsection  
53 (f) of this section, as applicable, the department may reclassify a  
54 telecommunications service as competitive, emerging competitive or  
55 noncompetitive, in accordance with the degree of competition which  
56 exists for that service in the marketplace, provided (1) a competitive  
57 service shall not be reclassified as an emerging competitive service and  
58 (2) the department may extend the period (A) before the end of the  
59 ninety-day period and upon notifying all parties to the proceedings by  
60 thirty days, or (B) in accordance with the provisions of subsection (f) of  
61 this section, as applicable.

62 (d) In determining whether to reclassify a telecommunications  
63 service, the department shall consider:

64 (1) The number, size and geographic distribution of certified  
65 telecommunications providers of the service, provided the department  
66 shall not reclassify any service as competitive if such service is  
67 available only from a telephone company or an affiliate of a telephone  
68 company that is a certified telecommunications provider;

69 (2) The availability of functionally equivalent services in the  
70 relevant geographic area at competitive rates, terms and conditions,  
71 including, but not limited to, services offered by certified  
72 telecommunications providers, providers of commercial mobile radio  
73 services, as defined in 47 CFR 20.3, voice over Internet protocol  
74 providers and other services provided by means of alternative  
75 technologies;

76 (3) The existence of barriers to entry into, or exit from, the relevant

77 market;

78 (4) Other factors that may affect competition; and

79 (5) Other factors that may affect the public interest.

80 (e) On and after December 31, 2011, any certified  
81 telecommunications provider or telephone company may, upon  
82 written notice to the department, elect to be exempt from any  
83 requirement to file or maintain with the department any tariff for  
84 competitive or emerging competitive intrastate telecommunications  
85 services offered or provided to residential or business retail end-user  
86 customers and, instead, shall make the terms and conditions for those  
87 services available to customers in a customer service guide or in such  
88 other manner determined by such provider or company providing  
89 such services. A copy of the customer service guide or other listing of  
90 terms and conditions shall be filed annually with the department. The  
91 tariff requirements for noncompetitive services, including for  
92 residential basic local exchange service in effect on the effective date of  
93 this section, shall remain in effect.

94 [(e) Each] (f) Unless a certified telecommunications provider or  
95 telephone company elects to be exempt from filing or maintaining  
96 tariffs for a competitive or emerging competitive intrastate service  
97 pursuant to subsection (e) of this section, each certified  
98 telecommunications provider and each telephone company shall file  
99 with the department a new or amended tariff for each competitive or  
100 emerging competitive intrastate telecommunications service  
101 authorized pursuant to section 16-247c. A tariff for a competitive  
102 service shall be effective on five days' written notice to the department.  
103 A tariff for an emerging competitive service shall be effective on  
104 twenty-one days' written notice to the department. A tariff filing for a  
105 competitive or emerging competitive service shall include (1) rates and  
106 charges which may consist of a maximum rate and a minimum rate, (2)  
107 applicable terms and conditions, (3) a statement of how the tariff will  
108 benefit the public interest, and (4) any additional information required

109 by the department. A telephone company filing a tariff pursuant to this  
110 section shall include in said tariff filing the information set forth in  
111 subdivisions (1) to (4), inclusive, of this subsection, a complete  
112 explanation of how the company is complying with the provisions of  
113 section 16-247b and, in a tariff filing which declares a new service to be  
114 competitive or emerging competitive, a statement addressing the  
115 considerations set forth in subsection (d) of this section. If the  
116 department approves a tariff which consists of a minimum rate and a  
117 maximum rate, the certified telecommunications provider or telephone  
118 company may amend its rates upon five days' written notice to the  
119 department and any notice to customers which the department may  
120 require, provided the amended rates are not greater than the approved  
121 maximum rate and not less than the approved minimum rate. A  
122 promotional offering for a previously approved competitive or  
123 emerging competitive tariffed service or a service deemed competitive  
124 pursuant to this section shall be effective on three business days'  
125 written notice to the department.

126 [(f)] (g) On petition or its own motion, the department may  
127 investigate a tariff or any portion of a tariff, which investigation may  
128 include a hearing. The department may suspend a tariff or any portion  
129 of a tariff during such investigation. The investigation may include,  
130 but is not limited to, an inquiry to determine whether the tariff is  
131 predatory, deceptive, anticompetitive or violates the pricing standard  
132 set forth in subdivision (1) of subsection (c) of section 16-247b. Not  
133 later than seventy-five days after the effective date of the tariff, unless  
134 the party filing the tariff, all statutory parties to the proceeding and the  
135 department agree to a specific extension of time, the department shall  
136 issue its decision, including whether to approve, modify or deny the  
137 tariff. If the department determines that a tariff filed as a new service  
138 is, in fact, a reclassification of an existing service, the department shall  
139 review the tariff filing as a petition for reclassification in accordance  
140 with the provisions of subsection (c) of this section.

141 [(g)] The provisions of this section shall not prohibit the department  
142 from ordering different tariff filing procedures or effective dates for an

143 emerging competitive service, pursuant to a plan for an alternative  
144 form of regulation of a telephone company approved by the  
145 department in accordance with the provisions of section 16-247k.]

146 Sec. 3. (NEW) (*Effective July 1, 2011*) The date and time of filing of  
147 each document with the Department of Public Utility Control shall be  
148 the date and time by which the department first receives a complete  
149 electronic or paper version of the document provided such electronic  
150 version or paper version is filed in accordance with section 16-1-14 of  
151 the regulations of Connecticut state agencies. If payment of a fee is  
152 required, a document shall not be deemed filed until the fee is received  
153 by the department. If a document is electronically submitted when the  
154 offices of the department are not open, such electronic document shall  
155 be deemed filed at the time the offices next open. Paper versions of an  
156 electronic filing shall not be required to be filed except (1) three paper  
157 copies of each document shall be filed with the department for any  
158 electronic filing which is made and such paper copy may be sent to the  
159 department via regular United States Postal Service, (2) any party or  
160 intervenor in a specific docket may specifically request of the  
161 department to receive a paper copy from any other party or intervenor  
162 of any filings related to that docket if they do not have computer  
163 access, and (3) the Office of Consumer Counsel may request up to  
164 three paper copies and such paper copies may be sent to the Office of  
165 Consumer Counsel by United States mail.

166 Sec. 4. Section 16-32 of the general statutes is repealed and the  
167 following is substituted in lieu thereof (*Effective July 1, 2011*):

168 Each public service company, except telegraph companies and  
169 express companies subject to the jurisdiction of the Interstate  
170 Commerce Commission or its successor agency and telephone  
171 companies, community antenna television companies, certified  
172 competitive video service providers, and holders of a certificate of  
173 cable franchise authority, owned, directly or indirectly, by a parent  
174 company, the accounts and operations of which are required to be  
175 audited annually in accordance with federal law, shall have an annual

176 comprehensive audit and report made of its accounts and operations  
177 by independent public accountants satisfactory to the Department of  
178 Public Utility Control. A copy of such annual audit report shall be filed  
179 with the department, together with the company's annual report. In  
180 the absence of such an audit report, or if the department, after notice  
181 and opportunity for a hearing, determines that such audit report is  
182 insufficient or unsatisfactory, the department shall cause such an audit  
183 to be made at the expense of the company either by independent  
184 public accountants satisfactory to the department or by any staff of the  
185 department engaged in the activities contemplated by subsection (b) of  
186 section 16-8. The department may require additional information  
187 regarding the accounts and operations of a telephone company,  
188 community antenna television company, certified competitive video  
189 service provider, or holder of a certificate of cable franchise authority  
190 otherwise exempt from the audit required pursuant to this section  
191 which the department has determined is necessary to carry out the  
192 department's obligations. The department may waive the compliance  
193 with the provisions of this section by any public service company  
194 whose annual gross income is less than one hundred thousand dollars.  
195 Nothing in this section shall modify or limit the authority of the  
196 department to conduct a management audit or otherwise exercise its  
197 authority under section 16-8.

198 Sec. 5. Section 16-247b of the general statutes is repealed and the  
199 following is substituted in lieu thereof (*Effective July 1, 2011*):

200 (a) On petition or its own motion, the department shall initiate a  
201 proceeding to unbundle a telephone company's network, services and  
202 functions that are used to provide telecommunications services and  
203 which the department determines, after notice and hearing, are in the  
204 public interest, are consistent with federal law and are technically  
205 feasible of being tarified and offered separately or in combinations.  
206 Any telecommunications services, functions and unbundled network  
207 elements and any combination thereof shall be offered under tariff at  
208 rates, terms and conditions that do not unreasonably discriminate  
209 among actual and potential users and actual and potential providers of

210 such local network services.

211 (b) Each telephone company shall provide reasonable  
212 nondiscriminatory access and pricing to all telecommunications  
213 services, functions and unbundled network elements and any  
214 combination thereof necessary to provide telecommunications services  
215 to customers. The department shall determine the rates that a  
216 telephone company charges for telecommunications services, functions  
217 and unbundled network elements and any combination thereof, that  
218 are necessary for the provision of telecommunications services. The  
219 rates for interconnection and unbundled network elements and any  
220 combination thereof shall be based on their respective forward looking  
221 long-run incremental costs, and shall be consistent with the provisions  
222 of 47 USC 252(d).

223 [(c) (1) The rate that a telephone company charges for a competitive  
224 or emerging competitive telecommunications service shall not be less  
225 than the sum of (A) the rate charged to another telecommunications  
226 company for a noncompetitive or emerging competitive local network  
227 service function used by that company to provide a competing  
228 telecommunications service, and (B) the applicable incremental costs of  
229 the telephone company.

230 (2) On and after the date the department certifies a telephone  
231 company's operations support systems interface pursuant to section  
232 16-247n, the department shall, upon petition, conduct a contested case  
233 proceeding to consider whether modification or removal of the pricing  
234 standard set forth in subdivision (1) of this subsection for a  
235 telecommunications service deemed competitive pursuant to section  
236 16-247f is appropriate. Notwithstanding the provisions of subdivision  
237 (1) of this subsection, if the department determines that such a  
238 modification or removal is appropriate and is consistent with the goals  
239 set forth in section 16-247a, the department shall so modify or remove  
240 said pricing standard for such telecommunications service.

241 (3) Prior to the date that the department certifies a telephone

242 company's operations support systems interface pursuant to section  
243 16-247n, the department may, upon petition, conduct a contested case  
244 proceeding to consider whether modification or removal of the pricing  
245 standard set forth in subdivision (1) of this subsection for a  
246 telecommunications service deemed competitive pursuant to section  
247 16-247f is appropriate. Any petition filed pursuant to this subdivision  
248 shall specify the geographic area in which the applicant proposes to  
249 modify or remove such pricing standard. Notwithstanding the  
250 provisions of subdivision (1) of this subsection, if the department  
251 determines that such modification or removal is appropriate, is  
252 consistent with the goals set forth in section 16-247a and facilities-  
253 based competition exists in the relevant geographic area, the  
254 department shall so modify or remove said pricing standard for such  
255 telecommunications service. In determining whether facilities-based  
256 competition exists in the relevant geographic area, the department  
257 shall consider:

258 (A) The number, size and geographic distribution of other providers  
259 of service;

260 (B) The availability of functionally equivalent services in the  
261 relevant geographic area at competitive rates, terms and conditions;

262 (C) The financial viability of each company providing functionally  
263 equivalent services in the relevant geographic market;

264 (D) The existence of barriers to entry into, or exit from, the relevant  
265 geographic market;

266 (E) Other indicators of market power that the department deems  
267 relevant, which may include, but not be limited to, market penetration  
268 and the extent to which the applicant can sustain the price for the  
269 service above the cost to the company of providing the service in the  
270 relevant geographic area;

271 (F) The extent to which other telecommunications companies must  
272 rely upon the noncompetitive services of the applicant to provide their

273 telecommunications services and carrier access rates charged by the  
274 applicant;

275 (G) Other factors that may affect competition; and

276 (H) Other factors that may affect the public interest.]

277 [(d)] (c) A telephone company shall not use the revenues, expenses,  
278 costs, assets, liabilities or other resources derived from or associated  
279 with providing a noncompetitive service to subsidize the provision of  
280 competitive, emerging competitive or unregulated telecommunications  
281 services by such telephone company or any affiliate that is a certified  
282 telecommunications provider.

283 Sec. 6. Section 16-247m of the general statutes is repealed and the  
284 following is substituted in lieu thereof (*Effective July 1, 2011*):

285 [(a)] On and after July 1, [2001] 2011, a telephone company may  
286 [apply to the Department of Public Utility Control to] withdraw from  
287 the retail provision of a telecommunications service, upon thirty days'  
288 notice to the Department of Public Utility Control, provided such  
289 telecommunications service has been deemed competitive pursuant to  
290 section 16-247f prior to the date such application is submitted. Any  
291 such [application] notice shall specify (1) the service that the telephone  
292 company no longer wishes to provide, and (2) the geographic area or  
293 areas in which the telephone company proposes to no longer provide  
294 the service, [, and (3) the number of customers of the telephone  
295 company that will be affected by the proposed withdrawal and a  
296 discussion of ways to mitigate such impact.]

297 [(b) In considering any application by a telephone company  
298 pursuant to subsection (a) of this section, the department shall  
299 consider (1) the impact the proposed withdrawal will have on the  
300 goals set forth in section 16-247a, (2) the impact the proposed  
301 withdrawal will have on the financial, managerial and technical ability  
302 of the telephone company to provide other retail and wholesale  
303 telecommunications services and the quality of such services, (3) the

304 impact the proposed withdrawal will have on the rates paid by retail  
305 customers for the service that the telephone company no longer wishes  
306 to provide at retail, (4) the impact the proposed withdrawal will have  
307 on the retail availability of such service, and (5) the impact the  
308 proposed withdrawal will have on the ability of certified  
309 telecommunications providers to provide a functionally equivalent  
310 service at retail. The department shall not approve any such  
311 application for withdrawal unless it finds that such withdrawal (A) is  
312 consistent with the goals set forth in section 16-247a, and (B) is not  
313 contrary to the public interest. The department shall not approve any  
314 such application or authorize the withdrawal of a telephone company  
315 from the provision of a telecommunications service at retail unless the  
316 service that the telephone company no longer wishes to provide has  
317 been deemed competitive pursuant to section 16-247f. The department,  
318 in approving any such application, shall develop a method to allow  
319 customers receiving such service from the telephone company to  
320 choose a new provider of such service, provided the department shall  
321 not order the allocation or assignment of any customer.

322 (c) Any proceeding conducted pursuant to this section shall be  
323 considered a contested case, as defined in section 4-166.

324 (d) The provisions of this section shall not (1) preclude the  
325 withdrawal of a competitive or an emerging competitive tariff  
326 pursuant to section 16-247f, (2) preclude a telephone company from  
327 withdrawing a noncompetitive service in the normal course of  
328 business, or (3) apply to any certified telecommunications provider or  
329 any telephone company serving fewer than seventy-five thousand  
330 customers.]

331 Sec. 7. Section 16-256k of the general statutes is repealed and the  
332 following is substituted in lieu thereof (*Effective from passage*):

333 Each telephone company, as defined in section 16-1, and each  
334 certified telecommunications provider, as defined in said section 16-1,  
335 shall clearly and conspicuously disclose, in writing, to customers, upon

336 subscription and annually thereafter, (1) whether the removal or  
337 change in any telecommunications service will result in the loss of a  
338 discount or other change in the rate charged for any  
339 telecommunications service subscribed to or used by the customer; and  
340 (2) for any promotional offering filed on and after October 1, 2002,  
341 with the Department of Public Utility Control pursuant to subsection  
342 [(e)] (f) of section 16-247f, as amended by this act, that the offering is a  
343 promotion and will be in effect for a limited period of time.

344 Sec. 8. (NEW) (*Effective July 1, 2011*) (a) For the purposes of chapter  
345 283 of the general statutes, "interconnected voice over Internet protocol  
346 service" or "interconnected VoIP service" means any service that: (1)  
347 Enables real-time, two-way voice communications that originate or  
348 terminate from the user's location using Internet protocol or a  
349 successor protocol; (2) uses a broadband connection from the user's  
350 location; and (3) permits users generally to receive calls that originate  
351 on the public-switched telephone network and to terminate calls to the  
352 public-switched telephone network.

353 (b) Except as set forth in subsections (c) to (e), inclusive, of this  
354 section, and notwithstanding any other general or special law, no  
355 department, agency, commission or political subdivision of the state  
356 shall enact, adopt or enforce, either directly or indirectly, any law, rule,  
357 regulation, ordinance, standard, order or other provision having the  
358 force or effect of law that regulates or has the effect of regulating, the  
359 entry, rates, terms or conditions of interconnected VoIP service.

360 (c) Subsection (b) of this section shall not be construed to affect the  
361 authority of the Attorney General to apply and enforce the Connecticut  
362 Unfair Trade Practices Act, sections 42-110a to 42-110q, inclusive, of  
363 the general statutes, or other consumer protection laws of general  
364 applicability.

365 (d) Subsection (b) of this section shall not be construed to affect,  
366 mandate or prohibit the assessment of enhanced 9-1-1 fees,  
367 telecommunications relay service fees or lifeline service fees, and

368 nothing in subsection (b) of this section shall affect the authority of the  
 369 Department of Public Utility Control pursuant to subsection (a) of  
 370 section 16-247e of the general statutes.

371 (e) Subsection (b) of this section shall not be construed to (1) modify  
 372 or affect the rights, obligations or authority of any entity, including,  
 373 but not limited, to the department, to act pursuant to, or enforce the  
 374 provisions of 47 USC 251, 47 USC 252, any applicable tariff, or any  
 375 state law, rule, regulation or order related to wholesale rights, duties  
 376 and obligations, including the rights, duties, and obligations of local  
 377 exchange carriers to interconnect and exchange voice traffic; (2) modify  
 378 or affect the authority of the department to implement, carry out, and  
 379 enforce such provisions, rights, duties, obligations or tariff through  
 380 arbitration proceedings or other available mechanisms and  
 381 procedures; or (3) affect the payment of switched network access rates  
 382 or other intercarrier compensation rates, as applicable.

383 Sec. 9. (NEW) (*Effective from passage*) Any community antenna  
 384 television company or nonprofit organization providing community  
 385 access operations that supplied original programming from locally run  
 386 operations and provided funding to town-specific programming on  
 387 January 1, 2008, shall continue to fund town-specific programming in  
 388 such proportions to funding for original programming from locally  
 389 run operations as of January 1, 2008.

390 Sec. 10. (NEW) (*Effective July 1, 2011*) Any company or nonprofit  
 391 organization responsible for community access operations that  
 392 receives funds pursuant to subsection (k) of section 16-331a of the  
 393 general statutes may use such funds for the creation and development,  
 394 including, but not limited to, labor and staff expenses, of town-specific  
 395 community access programming."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	New section
Sec. 2	<i>July 1, 2011</i>	16-247f

Sec. 3	<i>July 1, 2011</i>	New section
Sec. 4	<i>July 1, 2011</i>	16-32
Sec. 5	<i>July 1, 2011</i>	16-247b
Sec. 6	<i>July 1, 2011</i>	16-247m
Sec. 7	<i>from passage</i>	16-256k
Sec. 8	<i>July 1, 2011</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>July 1, 2011</i>	New section